

IN THE UNITED STATES DISTRICT COURT STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

IN RE DONALD J. TRUMP CASINO
SECURITIES LITIGATION

MDL DOCKET NO. 864
ALL CASES

CASE MANAGEMENT ORDER NO. 2

AND NOW, TO WIT, this 14th day of February 1991,
it is hereby ORDERED and DECREED by agreement for the actions
referred to in the caption hereto and for any related action which
hereafter may be filed in or transferred to this Court that:

I.

ORDER OF COORDINATION

ORIGINAL FILED

FEB 14 1991

WILLIAM T. WALSH, CLERK

The actions transferred to this Court by Order of the
Judicial Panel on Multidistrict Litigation filed December 4, 1990¹
are hereby coordinated for purposes of discovery and pretrial

¹ The four cases transferred to this Court are entitled Sydney L. Kaufman v. Trump's Castle Funding, Inc., et al., Civil Action No. 90-2349 (JFG); Jerome Schwartz v. Trump's Castle Funding, Inc., et al., Civil Action No. 90-2350 (JFG); Peter Stuyvesant, Ltd. v. Donald J. Trump, et al., (Civil Action No. 90-3826 (JBS) (S.D.N.Y.)); Susan Cagan, et al. v. Donald J. Trump, et al., (Civil Action No. 90-2842 (CJP) (E.D.N.Y.)). On December 14, 1990, the Judicial Panel on Multidistrict Litigation entered conditional transfer Orders in Fairmont Financial Corp., et al. v. Donald J. Trump, et al. (Civil Action No. 90-6202 (LBS) (S.D.N.Y.)); Fred Glosser, et al. v. Donald J. Trump, et al., (Civil Action No. 90-6534 (LBS) (S.D.N.Y.)); Robert Kloss v. Donald J. Trump, et al., (Civil Action No. 90-3516 (E.D.N.Y.)), which actions if not opposed by January 2, 1991 would also be transferred to this Court. Plaintiffs' counsel believe that the transfer was not opposed by any party.

motions before the Honorable John F. Gerry pursuant to Rule 42(a) of the Federal Rules of Civil Procedure and according to the provisions set forth herein. This Case Management Order No. 2 (the "Order") shall apply to the described actions² and to each case that relates to the same subject matter as the described actions that is subsequently filed in this Court or transferred to this Court. All actions shall be described herein as the "Coordinated Actions."

II.

MASTER DOCKET AND FILE AND SEPARATE ACTION DOCKETS AND FILES

A. A Master Docket and File are hereby established for the Coordinated Actions. Entries in the Master Docket shall be applicable to the Coordinated Actions in accordance with the terms and provisions set forth in this Court's Case Management Order No. 1 filed December 17, 1990, and the provisions set forth herein.

B. The original of this Order shall be filed by the Clerk in the Master File herein established. The Clerk also shall maintain a separate file for each of the individual actions and filings shall be made therein only as set forth in this Order. The Clerk of the Court shall file a copy of this Order in each such separate file. The Clerk also shall mail a copy of this Order to counsel of record in each of these cases.

² Id.

III.

SUBSEQUENTLY FILED OR TRANSFERRED ACTIONS

A. When a case that relates to the same subject matter as the described actions is hereafter filed in this Court or transferred to it from another Court, the Court will enter an order making the newly filed or transferred action subject to this Order and shall mail a copy of such order to Plaintiffs' Coordinating Counsel, as defined below. Plaintiffs' Coordinating Counsel shall:

(1) mail a copy of such Order to counsel of record in each of the Coordinated Actions and to counsel for plaintiff(s) and counsel for defendant(s) in such newly filed or transferred actions; and

(2) mail a copy of this Order to counsel for plaintiff(s) and counsel for defendant(s) in each such newly filed or transferred action.

Further, the Clerk of the Court shall file a copy of this Order in the separate file for such action and make an appropriate entry in the Master Docket.

B. The Court requests the assistance of counsel in calling to the attention of the Clerk of the Court the filing or transfer

of any case that should be added to the Coordinated Actions under this Order.

C. Within 20 days of the mailing of an Order adding an action to the Coordinated Actions, any party may file an objection to the order or seek relief from some or all of the provisions of this Order.

IV.

CAPTION OF CASES

~~A. Every document filed in the Coordinated Actions shall~~
bear the identification "MDL Docket No. 864."

B. When a document is intended to be applicable to all actions to which the Order is applicable, the words "All Cases" shall appear immediately after the words, "This Document Relates To:" in the caption set out above. When a document is intended to be applicable to only some, but not all, of such actions, the docket number for each individual action to which the document is intended to apply the name of the plaintiff in said action shall appear immediately after the words, "This Document Relates To:" in the caption described above (e.g., "Civil Action No. _____, "All Taj Mahal Cases"³ or "All Trump Castle and Trump Plaza Cases"⁴). If

³ Of the seven described actions, six concern bonds issued in connection with the development of the Taj Mahal Casino ("Taj Mahal Cases"). The only action not included in the Taj Mahal cases

such document relates to five or fewer actions; the abbreviated caption of each of the actions may be listed opposite its number.

V.

FILING AND DOCKETING

A. When a document is filed and the caption, pursuant to Section IV above, shows that it is to be applicable to "All Actions," the Clerk shall file such document in the Master File and note such filing in the Master Docket. No further documents need be titled or docket entries made.

B. When a document is filed and the caption, pursuant to Section IV above, shows it is to be applicable to fewer than all of the Consolidated Actions, the Clerk shall file a copy of such document in the Master File and a copy in the file of each specific action to which the document is intended to be applicable, and shall note such filing in the Master Docket and in the docket of each such action. It shall be the responsibility of the party

i Peter Stuyvesant, Ltd. v. Donald J. Trump, et al., Civil Action No. 90-3826 (JBS) (S.D.N.Y.).

⁴ Of the seven described actions, three concern bonds issued in connection with the development of the Trump Castle Casino ("Trump Castle Cases"). Those three actions are Sydney L. Kaufman v. Trump's Castle Funding, Inc., et al., Civil Action No. 90-2349 (JFG); Jerome Schwartz v. Trump's Castle Funding, Inc., et al., Civil Action No. 90-2350 (JFG) and Peter Stuyvesant, Ltd. v. Donald J. Trump, et al., Civil Action No. 90-3826 (JBS) (S.D.N.Y.). To date, only one case concerns bonds issued in connection with the development of Trump Plaza Casino ("Trump Plaza Cases"). That action is Stuyvesant, Id.

filing such document to supply the Clerk with sufficient copies of any document to facilitate the Clerk's compliance with the directives of this paragraph.

VI.

CONSOLIDATED AMENDED COMPLAINTS

A. Plaintiffs' Coordinating Counsel, as defined below, shall file two consolidated amended complaints ("Complaints"), the first in the Taj Mahal Cases and the second in the Trump Castle and Trump Plaza Cases, on or before February 8, 1991. Defendants shall answer, move or otherwise plead to plaintiffs' Complaints not later than March 23, 1991. Any motion to dismiss shall be made returnable May 3, 1991 before Chief Judge Gerry. Plaintiffs shall have until April 15, 1991 for their responses. Defendants shall have until April 25, 1991 for any reply.

B. The First Request for Production of Documents to Defendants served by Plaintiffs in Susan Cagan, et al. v. Donald J. Trump, et al. shall be deemed the Document Request in the Taj Mahal Cases. The Requests for Production of Documents to Defendants served by plaintiffs in Peter Stuyvesant, Ltd. v. Donald J. Trump, et al. shall be deemed the Document Request in the Trump Castle and Trump Plaza Cases. Defendants shall commence producing non-privileged, relevant documents on or

before March 1, 1991, at a time and place to be mutually agreed upon by counsel, subject to a further schedule to be agreed to between counsel.

C. The pending motion for class certification ("Class Motion") filed and served in Fairmont Financial Corp. v. Donald J. Trump, et al., shall be deemed the Class Motion in the Taj Mahal Cases. The pending Class Motion filed and served in Peter Stuyvesant, Ltd. v. Donald J. Trump, et al., shall be deemed the Class Motion in the Trump Castle and Trump Plaza Cases. Defendants shall file and serve responses to the Class Motions within thirty days after filing an answer to the Consolidated Amended Complaints or after the Court enters an Order denying defendants' motions to dismiss, whichever is earlier. Plaintiffs' replies shall be filed and served on or before ten days thereafter.

VII.

ORGANIZATION OF PLAINTIFFS' COUNSEL

A. The organizational structure of plaintiffs' counsel established by this Order shall be applicable to the Coordinated Actions.

B. The law firms of Wechsler Skirnick Harwood Halebian & Feffer, Greenfield, & Chemicles and Goodkind, Labaton

& Rudoff shall serve as Plaintiffs' Coordinating Counsel in the Coordinated Actions. Plaintiffs' Coordinating Counsel shall be responsible for the receipt and dissemination of documents as described herein, may call meetings of plaintiffs' counsel when appropriate, shall be responsible for overall coordination of the conduct of the Coordinated Actions, including the coordination of written discovery, and the scheduling of depositions, in order to avoid any duplicative effort, and shall act as liaison with defendants' counsel. Additionally, the Taj Mahal Cases shall have an executive committee consisting of the law firms of Berger & Montague, Zwerling, Schachter and Zwerling, Barrack, Rodos & Bacine, Wechsler Skirnick Harwood Halebian & Feffer, and Greenfield & Chimicles. The lead counsel for the Taj Mahal Cases shall be the last two named firms. In the Trump Castle and Trump Plaza Cases, Goodkind, Labaton & Rudoff shall be lead counsel. The lead counsel in the Taj Mahal Cases or Trump Castle and Trump Plaza cases shall have the following responsibilities in connection with the respective cases.

- (1) to initiate, brief and argue motions and prepare, serve and file opposing briefs in proceedings initiated by other parties;
- (2) to act as spokespersons at pretrial conferences;
- (3) to negotiate with defense counsel with respect to settlements and other matters;

(4) to conduct all pre-trial, trial, and post-trial proceedings;

(5) to consult with and employ experts; and

(6) to perform such other duties and undertake such other responsibilities as they deem necessary or desirable in connection with the prosecution of the Taj Mahal Cases or Trump Castle and Trump Plaza Cases.

C. Carl Poplar, Esquire shall act as liaison for the Court in communicating with plaintiffs' Coordinating Counsel.

D. No motion, request for discovery or pretrial proceeding shall be initiated or responded to on behalf of any plaintiff except by Plaintiffs' Coordinating Counsel, subject to the right of any plaintiff having distinct interests to seek modification of the Order in accordance with Paragraph XI.

E. Plaintiffs' Coordinating Counsel shall undertake reasonable efforts to utilize the various law firms representing plaintiffs in the Coordinated Actions and to allocate fairly and as reasonably as may be practicable the various assignments, but with a view in the first instance of facilitating the orderly and efficient prosecution of the litigation and the avoidance of duplicative or unproductive effort.

VIII.

COORDINATION OF PLEADINGS AND OTHER DOCUMENTS

A. Service by Defendants on Plaintiffs may be made by hand delivery, telecopier, or overnight mail to Plaintiffs' Coordinating Counsel.

B. A consolidated list of all counsel for plaintiffs shall be prepared and maintained by Plaintiffs' Coordinating Counsel, copies of which shall be furnished to the Court and to all counsel of record in the Coordinated Actions. All parties are directed to promptly notify both the Court and all counsel of record of any changes in or additions to the consolidated list. Plaintiffs' Coordinating Counsel shall promptly notify the Clerk and all counsel of record of any such change.

C. When a single pleading, motion or other document directed to all plaintiffs is filed by defendants, the response likewise shall be made in a single pleading, response, or other document filed on behalf of all plaintiffs by Plaintiffs' Coordinating Counsel, and all plaintiffs shall be bound thereby.

IX.

EXCHANGE OF INFORMATION AMONG COUNSEL

A. Counsel for plaintiffs and counsel for defendants are authorized and directed to cooperate with one another, whenever and to the greatest extent possible, to promote the expeditious handling of these pretrial proceedings, including the exchange or disclosure of information or documents between or among counsel for plaintiffs and counsel for defendants in connection with these Coordinated Actions. Conduct pursuant to this direction shall not, without more, be construed as a waiver of any attorney-client, work product, or other privilege.

B. Counsel for plaintiffs and counsel for defendants, respectively, are directed to coordinate their efforts and to file joint pleadings on behalf of all plaintiffs and on behalf of all defendants, respectively, to the extent such coordination is possible.

X.

PRESERVATION OF DOCUMENTS

During the pendency of this litigation, each party shall preserve all documents and other records containing information which is relevant or will lead to the discovery of

admissible evidence with respect to the subject matter of the litigation.

XI.

MODIFICATIONS OF THIS ORDER

Any party to the Consolidated Actions may move at any time for modification of any portion of this Order for good cause shown.

XII.

NEXT CONFERENCE

The next Case Management Conference in this case will be convened before United States Magistrate Jerome B. Simandle on Wednesday, March 20, 1991 at 1:00 P.M. Subjects to be addressed include scheduling of depositions, overall discovery program, maintenance of plaintiffs' counsel's records for attorneys' time and expense consistent with Manual for Complex Litigation, Second §24.21 (1985), and status of related cases.

February 14, 1991
Dated

Jerome B. Simandle
JEROME B. SIMANDLE
UNITED STATES MAGISTRATE JUDGE

In The United States District Court
For the District of New Jersey

IN RE: TRUMP SECURITIES MDL	:	USDC NJ #1:90mc919 (JFG)
	:	
IN RE DONALD J. TRUMP CASINO	:	MDL DOCKET NO. 864
SECURITIES LITIGATION	:	
	:	
KAUFMAN V. TRUMP	:	USDC NJ 1:90cv2349 (JFG)
	:	
SCHWARTZ V. TRUMP	:	USDC NJ 1:90cv2350 (JFG)
	:	
STUYVESANT V. TRUMP	:	USDC SDNY 90-3826 (JBS)
	:	USDC NJ 1:90cv5004 (JFG)
	:	
CAGAN V. TRUMP	:	USDC NJ 1:90cv5051 (JFG)
	:	USDC EDNY 90-2842 (CJP)
	:	
CHARNIS V. TRUMP	:	USDC NJ 1:90cv5052 (JFG)
	:	
KLOSS V. TRUMP	:	USDC NJ 1:91cv19 (JFG)
	:	USDC EDNY 90cv3516
	:	
FAIRMONT FINANCIAL V. TRUMP	:	USDC NJ 1:91cv18 (JFG)
	:	USDC SDNY 90-6202
	:	
GLOSSNER V. TRUMP	:	USDC NJ 1:91cv20 (JFG)
	:	USDC SDNY 90-6534

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CLERK OF THE PANEL
JUDICIAL PANEL ON MULTIDISTRICT
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WASHINGTON, DC 20005

MEMORANDUM OF UNDERSTANDING

The parties to the actions (the "Actions") now consolidated in the United States District Court for the District of New Jersey (the "Court") under the caption In re Donald J. Trump Casino Securities Litigation -- Taj Mahal Actions (MDL-864), by their undersigned attorneys, have reached an agreement in principle providing for the settlement of the Actions (the "Settlement") on the terms and subject to the conditions set forth below.

1. The settlement terms, as described below, are the result of the commencement and prosecution of the Actions and negotiations among counsel for the parties to the Actions, who have agreed in principle that, in settlement of the Actions:

(A) Trump Taj Mahal, Inc. ("TTMI"), or at the option of Donald J. Trump, a transferee of a portion of TTMI's interest in Trump Taj Mahal Associates (the "Partnership"), will issue to the classes of persons on behalf of whom plaintiffs have brought the Actions (the "Settlement Class", as defined in paragraph 4(a) below) putable warrants convertible into common stock of the issuer reflecting 1.76% of the equity of the Partnership on a fully diluted basis assuming exercise of the warrants to be issued to Merrill Lynch, Pierce, Fenner &

Smith, Inc. ("Merrill Lynch") in accordance with paragraph 3 below, subject to the terms and conditions more fully described in Exhibit A hereto.

(B) The terms of the proposed plan of reorganization of Trump Taj Mahal Funding, Inc., Trump Taj Mahal Associates and certain related entities (the "Solicitors") pursuant to chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 et. seq. (the "Reorganization"), as currently reflected in Pre-Effective Amendment No. 2 to Form S-4 Registration Statement (the "Registration Statement") filed by the Solicitors on or about March 1, 1991, will be amended and improved as follows: (i) early redemption of the New Bonds will occur if additional Excess Cash Flow is available; (ii) the redemption value of Class B shares of Taj Mahal Holding Corp. will be increased from \$.01 to \$.50; (iii) the total interest payable on the Bonds will be increased 10 basis points; (iv) the minimum cash rate of interest on all New Bonds, including payment-in-kind bonds ("PIKs"), will be fixed at 9 3/8% per annum; (v) a cash sweep payment will be paid to bondholders immediately prior to the commencement of the bankruptcy case; this amount is currently anticipated to be approximately \$3-3.5 million, however, because this payment is to be made out of excess cash available after other obligations have been satisfied, there can be no assurance as to the amount of any cash sweep payment (vi) interest on the New Bonds will accrue

from April 1, 1991; and (vii) the entire 14% Payment will be paid pro rata to holders of New Bonds on the final payment date if the persons otherwise entitled thereto cannot be located. All capitalized terms in this paragraph have the meaning given them in the Registration Statement.

(C) Defendants will create a settlement fund in the amount of \$3.5 million in cash. \$1.5 million of that amount will be paid by and on behalf of defendants Donald J. Trump, Robert S. Trump, Harvey Freeman, The Trump Organization, Inc., Trump Taj Mahal Funding, Inc., Trump Taj Mahal, Inc. and Trump Taj Mahal Associates Limited Partnership (collectively the "Trump Defendants"); \$2 million of that amount will be paid by and on behalf of defendant Merrill Lynch. These amounts will be deposited in an interest-bearing escrow account to be maintained by plaintiffs' lead counsel at a financial institution mutually agreeable to the parties to the Actions no later than June 15, 1991.

2. The parties hereto agree that the terms of the Reorganization, amended as set forth in paragraph 1 above, have been improved as a result of negotiations among counsel for the parties over the terms originally proposed by the Solicitors, and that the Reorganization and the Settlement contemplated by this Memorandum of Understanding are fair to and in the best interests of the members of the Settlement Class.

3. As part of the settlement of the Actions, Merrill Lynch agrees to withdraw and release all claims that it has or

may have against any of the Trump Defendants or their affiliates for indemnification arising out of (a) the letter dated June 17, 1988 from Merrill Lynch to Donald J. Trump, or (b) the purchase agreement between Merrill Lynch, and Trump Taj Mahal Funding, Inc. and Trump Taj Mahal Associates Limited Partnership dated November 9, 1988. In exchange for this release, the Trump Defendants will issue to Merrill Lynch 50,000 warrants of the type described in Exhibit A hereto, except that the warrants issued to Merrill Lynch will not contain any put feature.

4. The parties to the Actions will execute an appropriate Stipulation of Settlement and such other documentation as may be required in order to obtain approval by the Court, or any other court approval (including bankruptcy court approval) that may be considered appropriate or necessary, of the Settlement of the Actions upon the terms set forth in this Memorandum of Understanding. Pending the negotiation and execution of said Stipulation of Settlement, all proceedings in the Actions will be suspended except as provided in paragraph 6 below. The Stipulation of Settlement will describe plaintiffs' claims and the procedural history of the Actions and will expressly provide, among other things, (a) for the certification of a class, for settlement purposes only, consisting of all record and beneficial holders of 14 $\frac{1}{2}$ First Mortgage Bonds, Series A, due 1998, issued by Trump Taj Mahal

Funding, Inc. ("Taj Bonds") on or after November 22, 1988, including all those who purchased Taj Bonds on or after November 22, 1988 and currently hold them as well as all those who purchased Taj Bonds on or after November 22, 1988 and sold them at a loss, as well as the legal representatives, heirs, predecessors and successors in interest, or assigns of all such foregoing holders (the "Settlement Class"); (b) for the dismissal with prejudice of the Actions; (c) for a release by all members of the Settlement Class of all defendants in the Actions and their officers, directors and affiliates from all claims that are or could have been asserted in the Actions; (d) that defendants in the Actions have denied, and continue to deny, that they have committed or have threatened to commit any violations of law or breaches of duty; (e) that defendants in the Actions are entering into this Memorandum of Understanding, and will be entering into the Stipulation of Settlement, solely because the proposed Settlement would eliminate the burden and expense of further litigation and would facilitate the Reorganization, which is in the best interest of the parties and all creditors of the Solicitors; and (f) that all members of the Settlement Class relinquish any entitlement to, and shall be enjoined and barred from commencing, any action or asserting any objection with respect to the Reorganization or any claim that is or could have been asserted in the Actions.

5. The parties to the Actions will present the Settlement to the Court for hearing and approval as soon as practicable following appropriate notice to the members of the Settlement Class and will use their best efforts to obtain final Court approval of the Settlement and the dismissal of the Actions with prejudice as to all claims asserted in the Actions as against the named plaintiffs and the Settlement Class without cost to any party (except as provided for in paragraph 7 below).

6. The consummation of the Settlement is subject to (a) the completion by plaintiffs of any additional discovery, ~~as mutually agreed to by the parties to the Actions, sufficient~~ to enable plaintiffs' counsel to confirm that the Settlement is fair and reasonable and in the best interests of the members of the Settlement Class, provided that defendants shall not unreasonably withhold their consent to such additional discovery; (b) the drafting and execution of an appropriate Stipulation of Settlement and such other documentation as may be required to obtain final Court approval of the Settlement; (c) dismissal of the Actions with prejudice and without costs to any party (except as provided for in paragraph 7 below); and (d) final confirmation of a plan of reorganization containing, among other things, appropriate releases of and injunctive protection for the defendants.

7. The parties have had no discussions concerning the award of attorneys' fees or reimbursement of expenses to plaintiffs' counsel, except that the parties have agreed that those fees will be awarded based upon motion to the Court, and that any fees awarded will be paid only out of the settlement consideration described in paragraph 1 above. Defendants shall be responsible for all costs of providing notice of this Settlement to the members of the Settlement Class and those relating to the processing of claims hereunder.

Dated: New York, New York
April 23, 1991

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Executive Committee of
Plaintiffs' Counsel

EXHIBIT A

TRUMP TAJ MAHAL, INC.

Summary of Terms and Conditions

Putable Warrants

Issuer: Trump Taj Mahal, Inc. ("TTMI") or, at the option of Donald J. Trump, a transferee of a portion of TTMI's interest in the Partnership

Expiration Date: June 15, 2001

Issue: 2.5 million warrants for Common Stock of the Issuer or equivalent thereof (the "Common Stock") reflecting 1.76% of the equity of the Partnership

Exercise Period: Any time after December 15, 2000

Exercise Price: \$.01 per share of Common Stock

Adjustments to Exchange Ratio: The exchange ratio is subject to adjustment as set forth in the Warrant Agreement including: the issuance of stock of the Issuer as a divided or distribution on the Common Stock; subdivisions, combinations and reclassifications of the Common Stock, the issuance to all holders of Common Stock of certain rights or warrants entitling them to subscribe for Common Stock; and the issuance, in certain circumstances, of securities convertible into or exchangeable for shares of Common Stock. No adjustment in the exchange ratio will be required unless such adjustment would require a change of at least 1% in the ratio then in effect, but any adjustment that would otherwise be required to be made shall be carried forward and taken into account in any subsequent adjustment. If the Issuer consolidates or merges into or transfers or leases all or substantially all of its assets to

another person, the Warrants will become convertible into the kind and amount of securities, cash or other assets which the holders of the Warrants would have owned immediately after the transaction if the holders had converted the Warrants immediately before the effective date of the transaction.

Put Features:

Put Period:	Any time after December 15, 2000 until the Expiration Date
Put Price:	\$12,500,000 in the aggregate
Put Obligor:	TTMI
Conditions to Put:	Payment of Bonds in full or a refinancing of the Partnership or the sale of all or substantially all of the assets of the Partnership; cumulative Partnership net income of \$145,000,000 for 1995-1999; holders of at least 60% of the warrants elect to exercise the put.